

**Title:** Civil Rights

**Purpose**

To ensure that no part of the administration or service of the WIC Program in the State of Montana shall exclude from participation in, deny benefits of or subject to discrimination any person on the grounds of race, color, national origin, age, disability or sex.

In addition, Montana law requires no discrimination on the basis of religion, creed, political ideas or marital status.

**Authority**

7 CFR Parts 15, 15a, and 15b, FCS instructions and MCA 49-2-303

**Policy**

The local agency (LA) shall be in compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, 7 CFR Parts 1, 15a, and 15b, FCS instructions and MCA 49-2-303.

Each LA shall make provisions to screen applicants with disabilities and provide all WIC services to all participants with disabilities. Program or nutrition education (NE) information is to be provided to persons with disabilities in the format they request in as timely a manner as possible, to include providing qualified interpreters for persons who are hearing impaired.

---

**Guidelines**

**I. Public Notification**

- A. Once a year the WIC State Office and all LAs are required to publicize the availability of benefits and eligibility criteria to the general public with special emphasis on Pregnant Women, Migrants and the Homeless. Agencies and private groups serving minority populations are included in the outreach and referral network. State and LA program responsibilities in this area are described in this section of the State Plan.
- B. During and just prior to the migrant season, special outreach efforts are made to inform migrants of the availability of the Program. Outreach and referral activities are monitored by the State WIC Agency staff during the on-site monitoring visit and in the review of the annual outreach and referral plan.
- C. All LA's must display the poster "And Justice for All" in a place where it can be easily seen by participants and potential participants. Office hours, the Non-smoking poster and Fair Hearing Procedures must also be posted where they can be easily seen. Participants are informed of their rights and responsibilities on the Certification Form and Eligibility Statement, WIC ID Packet and Rights and Responsibility Form.

- D. The Fair Hearing Procedures and Discrimination Complaint are provided to participants when they are determined ineligible for the program. These are described in the State Plan, Chapter 4. Ineligible persons are provided with WIC regulations and pertinent policy statements upon request.
- E. When new sites or programs open or change hours of operation, the LAs involved are required to inform the public and State WIC agency of those changes.

## **II. Bilingual Staff and Materials**

- A. The LA shall ensure that required WIC services are provided to non-English or limited English speaking persons in the appropriate language orally and/or in writing. This includes arranging for an interpreter.
  - 1. At the time the appointment is made and there is an indication that interpreter services may be needed, LA staff shall ask if interpreter services will be needed and arrange for an interpreter.
- B. The LA shall ensure that there are bilingual staff members or interpreters available to serve non-English speaking and/or limited-English speaking persons.
  - 1. In no circumstances shall the LA staff ask or require another applicant or participant to interpret for a participant.
  - 2. In no circumstances shall the LA staff allow a child, defined for purposes of this policy as a person under age 16, to interpret for a participant.
  - 3. Participants may choose to bring a friend or family member, age 16 or older, to interpret for them; however, under no circumstances shall a participant be required to do so.
- C. The LA shall ensure that all applicable rights and responsibilities are read to non-English and limited-English speaking WIC participants or parents/guardians of applicants/participants in the appropriate language.
- D. All outreach materials shall contain a civil rights statement to the effect that: *This is an equal opportunity program. If you believe you have been discriminated against because of race, color, national origin, age, sex or disability, write immediately to the Secretary of Agriculture, Washington, D.C. 20250.*

## **III. Provision of Services for Participants with Disabilities**

- A. Each LA that has clinic sites not accessible to persons/applicants/participants with disabilities, a written local policy shall be developed that describes how services shall be provided to the disabled. These alternative service provisions may include but are not limited to: service at other clinic sites, in other accessible locations within the same clinic, etc. In choosing among available methods, the LA shall give priority to those methods that offer programs and activities to qualified disabled persons in the most integrated setting appropriate to obtain the full benefits of the program.
- B. Some examples of physical or mental impairment are such conditions as: orthopedic, visual, speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; drug addiction and alcoholism. As such, the local policy shall be flexible enough to cover all types of disabilities and to allow reasonable accommodations. Examples of reasonable accommodations include:

provision of interpreters for the deaf, readers or Braille for individuals who are visually impaired, and other special learning equipment. These are all allowable costs and any questions shall be directed to the SA.

- C. The intent of the Americans with Disabilities Act is for people with disabilities to receive information in the form they prefer. The LA shall provide nutrition education or other program information in the format preferred by the person making the request.
  - 1. Examples of formats preferred by persons with disabilities include large print, audio tapes, captioned videos, Braille text, etc. This information shall be provided quickly, particularly because of the crucial need within a short timeframe for providing nutrition education to the pregnant person. There are some exceptions:
    - a. Same information in Alternate Form: For example, a person who is hearing impaired may request that a nutrition education lesson on videotape be electronically captioned. If the same information content is available in another form, such as in a pamphlet, it may fulfill the request if the disabled person freely agrees to accept it.
    - b. Undue Hardship: If it may be demonstrated that providing information in a particular format would impose an undue hardship, it need not be provided in that form. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation. Therefore, the Montana Department of Health, as a governmental entity of the State of Montana, is obliged in almost all circumstances to honor requests for accessible materials. Inconvenience or moderate difficulty or expense is not sufficient reason for failing to provide nutrition education or other information in the form desired by the disabled person requesting it.
- D. Contact the SA for approval to deny a request based on undue hardship.

**IV. If alternative materials are requested by a disabled applicant or participant:**

- A. It is preferable that such requests be fulfilled at the LA level. If this cannot be accomplished at the local level, or would unduly delay fulfillment of the request, the LA shall contact the SA for assistance.
- B. The LA shall contact the SA for assistance within one business day of a request for a specialized accommodation of the requirements for a participant with disabilities. If the LA identifies the same need or request from several participants, the SA shall be notified that more than one participant has such a need in order to facilitate production of specialized materials.
- C. An individual with disabilities has the right to choose to participate by use of the regular WIC methods for delivery of nutrition education and program information even when special materials are available.
- D. While both the SA and LA shall anticipate that such requests will arise, they shall respond to requests only as they arise. There is no need to produce nutrition education materials or other information in all possible formats in advance simply because the possibility exists there may be requests in the future.

- E. Requests shall be handled in the simplest and most economical manner acceptable to the person making the request. For example, photocopying an existing brochure at a magnified scale to produce a large print document is a reasonable response. Recording the contents of a written lesson onto an audio cassette is also proper, if acceptable. Hiring an interpreter to sign the soundtrack of a video lesson to a hearing-impaired person is another example.
- V. Qualified interpreters for persons with hearing impairments shall be provided by the LA when requested by a person who is hearing impaired. Do not require the participant to provide his/her own interpreter; however, a participant may voluntarily choose to bring a friend or family member to interpret if the client prefers to do so. All interpreters shall comply with the regulations on confidentiality.

The Qwest "711" telephone relay service uses a third-party operator who transmits messages back and forth between an individual who uses a TDD (a telecommunications device for the deaf) and another person who uses a regular telephone. A TDD uses typewriter-like equipment to produce and transmit typed text that may be received on another TDD machine. This service will be provided to applicants/participants during the certification services, nutrition services or any other type of services needed by hearing impaired individuals.

To access this service in Montana dial:

Customer Service #: 1-866-897-8860 V/TTY

Access #'s"

1-866-253-4090 (V)

1-800-253-4091 (T)

1-877-826-7161 (VCO)

1-877-253-4613 (STS)

1-800-435-8590 (Spanish)

## **VI. Non-discrimination Policies and Procedures**

WIC's non-discrimination policy is printed on the WIC Certification Form and Eligibility Statement, WIC ID Packet, WIC Brochures, press releases and any other materials regarding WIC eligibility.

## **VII. Local WIC Program Reviews**

- A. State WIC Agency staff reviews all local programs and at least 25% of the satellites biennially. The monitoring checklist includes questions on civil rights.
- B. During the on-site visit the State staff checks the ineligible file for possible discrimination. The State staff makes recommendations to local programs based on monitoring findings.
- C. LA's are required to respond to the recommendations with their corrective action plans which have been developed with input of State WIC Agency staff. A follow-up on their action is accomplished through additional conversations, correspondence or visits as necessary. Copies of these reports are in the files at the State and LA's.

- D. All findings of non-compliance or probable non-compliance related to Title VI will be forwarded to the Regional Administrator, MPRO.

### **VIII. Pre-award Reviews of Potential Local Programs**

As part of the application review process, State WIC Agency staff will review applications according to the criteria outlined in FCS Instruction 113-2, IX, A, 2.

### **IX. Retailer Reviews**

Every retailer agreement will be reviewed annually. All retailer agreements contain a non-discrimination statement.

### **Procedures**

#### **I. Data Collection**

- A. LA's are responsible for the collection of racial/ethnic statistical information. The procedures used by the LA's are described below.
- B. Participants will be asked to self-identify their racial group at the time of application, but only after the staff has explained, and they understand, that the collection of this information is strictly for statistical reporting requirements and has no effect on the determination of their eligibility to participate in the Program.
- C. Visual identification shall be used by LA staff to determine a participant's racial/ethnic category if it is not identified by the participant. For reporting purposes, a participant may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging.
- D. This data is available only to authorized personnel in an aggregated format as a safeguard to prevent its use for discriminatory purposes.
- E. The minimum categories for data on race and ethnicity for Federal statistics, program administrative reporting and civil rights compliance reporting are defined as follows:
  - 1. Ethnicity
    - a. Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central America, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."
    - b. Non-Hispanic or Latino. A person who does not meet the definition of Hispanic or Latino.
  - 2. Race
    - a. American Indian or Alaska Native. A person having origins in any of the original peoples of North and South American (including Central America), and who maintains tribal affiliation or community attachments.
    - b. Asian. A person having origins in any of the original peoples of the Far East, Southeast Asian, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

- c. Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as “Haitian”, “Negro” or “African American” can be used in addition to “Black.”
- d. Native Hawaiian or other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- e. White: A person having origins in any of the original peoples of Europe, Middle East, or North Africa.

## **II. Complaints**

- A. The LA shall immediately refer by phone and follow by written correspondence to the SA any complaint from an individual who feels or believes that his/her civil rights have been violated by an action which results in the individual’s denial of participation, harassment, suspension or termination from the program or any complaint in regard to any action taken by the LA which the individual believes is discriminatory and a violation of his/her civil rights (race, color, national origin, sex, age or disability). The SA shall immediately refer in writing any such complaints, received either from the LA or directly from an individual, to the National Office of Civil Rights.

Contact: USDA, Director

Office of Adjudication and Compliance

1400 Independence Avenue, SW

Washington, D.C. 20250-9410

Or call 866-632-9992 (toll free)

or (202)-260-1026

or (202)-401-0216 (TDD)

- B. Any complaint regarding religion, creed, political ideas, or marital status will be reported within 180 days to the Montana Human Rights Commission, P.O. Box 1728, Helena, MT 59624.
- C. When the LA or SA receives a complaint from any individual alleging discrimination, the complainant shall be notified that all such complaints shall be reported immediately to USDA for investigation. The individual shall also be provided with the following addresses and phone numbers should they choose to report the complaint on their own.

Contact: USDA, Director

Office of Adjudication and Compliance

1400 Independence Avenue, SW

Washington, D.C. 20250-9410

Or call 866-632-9992 (toll free)

or (202)-260-1026

or (202)-401-0216 (TDD)

- D. Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action.
- E. Complaints may be presented either in written or oral form (**The “Civil Rights Complaint” form must be used for all reported complaints**). If they are presented orally and the complainant declines to submit the allegations in written form, the person receiving the call shall write up the elements of the complaint by attempting to obtain as much of the following information as possible:
  - ◆ Name, address, and telephone number or other means of contacting the complainant,
  - ◆ The specific location and name of the State Agency or Local Agency delivering the service or benefit,
  - ◆ The nature of the incident or action that led the complainant to feel discrimination was a factor,
  - ◆ The basis on which the complainant believes discrimination exists. The bases for nondiscrimination are race, color, national origin, age, disability or sex.
  - ◆ The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action, and
  - ◆ The date(s) during which the alleged discriminatory actions occurred of, if continuing, the duration of such actions.
- F. Complaints against a LA received by the SA shall not be reported to the LA per USDA instruction in order for USDA to determine whether or not an investigation is necessary.
- G. The SA by their own initiative through on-site reviews shall ascertain whether any action by the LA is of a discriminatory nature which would constitute a violation of the requirements of Title VI of the Civil Rights Act of 1964 and other authorities as outlined in the policy statement above and refer such information to USDA for investigation.
- H. Anonymous complaints shall be accepted and handled as any other complaint.
- I. Throughout this process, every effort shall be made to maintain the confidentiality of the individual making the civil rights complaint. The identity of every complainant shall be kept confidential, except to the extent necessary to carry out the purposes of an investigation, hearing or judicial proceeding.
- J. Once a complaint is received the information will be placed into the Civil Rights log book for tracking purposes. Each local agency will maintain a log book.

### **III. Guidelines**

- A. Some examples of discrimination include:
  - ◆ Exclusion of eligible persons from participation in the program on the basis of race, color, national origin, age, sex, or disability;
  - ◆ Inequitable allocation of food to eligible persons on the basis of race, color, national origin, age, sex, or disability.



- ◆ Issuance of food instruments or delivery of foods in a place, time, or manner that results in, or has the effect of, denying or limiting the benefits on the basis of race, color, national origin, age, sex, or disability;
- ◆ Selection of LAs for participation in the program which has the effect of, or results in, limiting the availability of the program benefits or services on the basis of race, color, national origin, age, sex, or disability;
- ◆ Failure to apply the same eligibility criteria to all potential eligibles seeking participation in the program;
- ◆ Certification of potential eligibles as eligible to receive program benefits solely on the basis of race, color, national origin, age, sex, or disability; and
- ◆ Maintenance of a waiting list which makes distinctions on the basis of race, color, national origin, age, sex, or disability.

**IV. Civil Rights Training.**

- A. The State WIC Agency will update LA program staff by mail or at the annual Spring Public Health Conference. The update shall include all aspects of program operations, particularly:
  - 1. Collecting and using data.
  - 2. Effective public notification systems.
  - 3. Complaint procedures.
  - 4. Review techniques.
  - 5. Resolution of non-compliance, including development of an action plan.